

## CCRB INVESTIGATIVE RECOMMENDATION

|   |                                     |                           |   |   |  |
|---|-------------------------------------|---------------------------|---|---|--|
| Investigator:<br>Alex Starace                     | Team:<br>Team # 8                   | CCRB Case #:<br>200807227 | <input checked="" type="checkbox"/> Force             | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S.              |
|   |                                     |                           | <input checked="" type="checkbox"/> Abuse             | <input type="checkbox"/> O.L.                 | <input checked="" type="checkbox"/> Injury |
| Incident Date(s)<br>Thursday, 05/15/2008 10:25 PM | Location of Incident:<br>§ 87(2)(b) | Precinct:<br>46           | 18 Mo. SOL<br>11/15/2009                              | EO SOL<br>11/15/2009                          |  |
| Date/Time CV Reported<br>Thu, 05/15/2008 12:00 AM | CV Reported At:<br>IAB              | How CV Reported:<br>Phone | Date/Time Received at CCRB<br>Wed, 05/21/2008 3:22 PM |   |  |

| Complainant/Victim | Type       | Home Address |
|--------------------|------------|--------------|
| § 87(2)(b)         | § 87(2)(b) | § 87(2)(b)   |
| § 87(2)(b)         | § 87(2)(b) | § 87(2)(b)   |
| § 87(2)(b)         | § 87(2)(b) | § 87(2)(b)   |
| § 87(2)(b)         | § 87(2)(b) | § 87(2)(b)   |

| Witness(es) | Home Address |
|-------------|--------------|
| § 87(2)(b)  | § 87(2)(b)   |
| § 87(2)(b)  | § 87(2)(b)   |
| § 87(2)(b)  | § 87(2)(b)   |
| § 87(2)(b)  | § 87(2)(b)   |
| § 87(2)(b)  | § 87(2)(b)   |
| § 87(2)(b)  | § 87(2)(b)   |
| § 87(2)(b)  | § 87(2)(b)   |
| § 87(2)(b)  | § 87(2)(b)   |

| Subject Officer(s)    | Shield | TaxID  | Command |
|-----------------------|--------|--------|---------|
| 1. POM Gypsy Pichardo | 00861  | 942353 | 046 PCT |
| 2. POM Rafael Perdomo | 21268  | 942338 | 046 PCT |

| Witness Officer(s)       | Shield No | Tax No | Cmd Name |
|--------------------------|-----------|--------|----------|
| 1. POF Yrcania Rodriguez | 09322     | 944947 | 050 PCT  |

| Officer(s)           | Allegation  | Investigator Recommendation |
|----------------------|---|-----------------------------|
| A.POM Rafael Perdomo | Force: PO Rafael Perdomo used physical force against § 87(2)(b)             | § 87(2)(b)                  |
| B.POM Rafael Perdomo | Discourtesy: PO Rafael Perdomo spoke obscenely to § 87(2)(b)                | § 87(2)(b)                  |
| C.POM Rafael Perdomo | Force: PO Rafael Perdomo struck § 87(2)(b) with handcuffs.                  | § 87(2)(b)                  |
| D.POM Rafael Perdomo | Abuse: PO Rafael Perdomo threatened § 87(2)(b) with the use of force.       | § 87(2)(b)                  |
| E.POM Rafael Perdomo | Abuse: PO Rafael Perdomo refused to provide his shield number to § 87(2)(b) | § 87(2)(b)                  |
| F.POM Rafael Perdomo | Force: PO Rafael Perdomo used physical force against § 87(2)(b)             | § 87(2)(b)                  |
| G.POM Gypsy Pichardo | Force: PO Gypsy Pichardo struck § 87(2)(b) with an asp.                     | § 87(2)(b)                  |
| H.POM Rafael Perdomo | Force: PO Rafael Perdomo tightened § 87(2)(b) s handcuffs.                  | § 87(2)(b)                  |

## Synopsis

On May 15, 2008, Sergeant Jose Camacho of the 46<sup>th</sup> Precinct called the Internal Affairs Bureau to report that § 87(2)(b) received a cut to the head while resisting arrest and that § 87(2)(b) sustained swelling to his right wrist, likely due to handcuffs. On May 17, 2008, § 87(2)(b) a receptionist at the § 87(2)(b) called IAB to report that § 87(2)(b) had appeared at the Emergency Room to seek treatment after he had been assaulted by police on May 15, 2008. This complaint was forwarded to the CCRB on May 21, 2008.

On May 15, 2008, at approximately 10:25 PM, at § 87(2)(b) in the Bronx, § 87(2)(b) and § 87(2)(b) and several of their friends were in the hallway of the fifth floor of the building. Three uniformed officers from the 46<sup>th</sup> Precinct, PO Rafael Perdomo, PO Gypsy Pichardo and PO Yrcania Rodriguez appeared at the top of the stairway. PO Pichardo observed § 87(2)(b) with marijuana and began arresting him. § 87(2)(b) yelled at PO Pichardo. PO Perdomo told § 87(2)(b) to stand against the wall. § 87(2)(b) did not do so and continued yelling at the officers, so PO Perdomo pushed § 87(2)(b) against the wall (**Allegation A**) and told him to “shut the fuck up” (**Allegation B**). PO Perdomo wrapped part of a pair of handcuffs around his fist like brass knuckles and let the other part of the handcuffs dangle free. PO Perdomo then swung the dangling part of the handcuffs and hit § 87(2)(b) in the head (**Allegation C**). PO Perdomo took out his pepper spray, and told § 87(2)(b) “If you don’t shut up, I’ll mace you” (**Allegation D**). § 87(2)(b) shouted at PO Perdomo that he wanted his badge number. PO Perdomo took his badge off his shirt and put it in his pocket (**Allegation E**). PO Perdomo then used force to arrest § 87(2)(b) (**Allegation F**). § 87(2)(b) and § 87(2)(b) were led downstairs in handcuffs. On the way down the stairway, PO Pichardo struck § 87(2)(b) with an asp three or four times (**Allegation G**). When § 87(2)(b) made a comment about the asp, PO Perdomo grabbed § 87(2)(b)’s handcuffs and yanked him a few steps back up the stairs causing an injury to § 87(2)(b)’s wrists (**Allegation H**).

§ 87(2)(g)

The case was originally assigned to Investigator Ansley Watson. Upon her resignation from the CCRB, the case was reassigned to the writer, Investigator Starace.

### Summary of Complaint

§ 87(2)(b) was interviewed at 3:07 PM on June 19, 2008 at the CCRB. § 87(2)(b) is a § 87(2)(b)-year-old Hispanic male. He is 5'8" tall and weights 140 pounds. He has black hair and brown eyes.

On May 15, 2008, at approximately 10:30pm at § 87(2)(b) § 87(2)(b) and several friends were hanging out in the hallway of his sister's apartment on the § 87(2)(b) Floor. The group was listening to music and waiting for haircuts, which were being given out of § 87(2)(b)

Three uniformed police officers, two males and one female, identified through investigation as PO Rafael Perdomo, PO Gypsy Pichardo and PO Yrcania Rodriguez of the 46<sup>th</sup> Precinct came up the stairs. PO Perdomo grabbed § 87(2)(b) turned around and said “What am I doing, officer?” § 87(2)(b) asked PO Perdomo, “Can I know why you are coming up here without asking for ID?” PO Perdomo said, “Shut up, and just get up on the wall.” § 87(2)(b) said, “Okay, but can you at least explain why you are putting me on the wall?”

PO Pichardo handcuffed § 87(2)(b) while PO Perdomo approached § 87(2)(b) who was three or four steps away. PO Perdomo told § 87(2)(b) to shut up. PO Perdomo used both hands to push § 87(2)(b) in the chest, against the wall (**Allegation A**). § 87(2)(b) said, “I live here, you can’t tell me to shut up.” PO Perdomo took out his handcuffs and said, “I told you to shut the fuck up.” (**Allegation B**) § 87(2)(b) said, “I’m not going to shut up; ask for my ID.” PO Perdomo had part of his handcuffs wrapped around his fist like brass knuckles. He swung the handcuffs. The handcuffs hit § 87(2)(b) on the front left part of his head (**Allegation C**). PO Perdomo hit § 87(2)(b) in the head with the handcuffs three times. PO Perdomo then turned § 87(2)(b) around to face the wall and pushed his head against the wall. § 87(2)(b) said, “Stop hitting me, I’m bleeding.” PO Perdomo hit him with the handcuffs again, connecting with his left ear. PO Perdomo pulled out his pepper spray. He said, “If you don’t shut up, I’ll mace you.” (**Allegation D**)

§ 87(2)(b) said, “I want your badge number.” § 87(2)(b) was stunned from being hit in the head, but when he looked for PO Perdomo’s badge, it was not on his shirt. (**Allegation E**) PO Pichardo held both § 87(2)(b) and § 87(2)(b) against the wall. PO Perdomo then wrestled § 87(2)(b) against a wall (**Allegation F**) and handcuffed him. The officers took all three arrested individuals downstairs. While on the stairs, PO Pichardo hit § 87(2)(b) three or four times in his torso with his asp (**Allegation G**). § 87(2)(b) said, “Wow, abuse for no reason.” In response, PO Perdomo grabbed § 87(2)(b)’s handcuffs and pulled them up and back, lifting § 87(2)(b)’s arms high behind him and yanking him a few steps up the stairs (**Allegation H**).

At the precinct, § 87(2)(b) was seen by EMTs. One EMT cleaned his head and told him that his injury was not serious. He still wanted to go to the hospital. He signed a sheet that he thought was verifying that he wanted to go to the hospital. The EMTs left. An officer later told § 87(2)(b) that he had refused treatment. He did not ask any officers to take him to the hospital after this. When he was released, he went to § 87(2)(b) on § 87(2)(b) and was treated for nerve and chest pain with pain medication. His head injury did not require a scan or any stitches.

On May 17, 2008, at 9:35 PM, § 87(2)(b) also filled out an Alleged Assault Form at the § 87(2)(b). He stated that “I was hit in the head, neck, and chest by police officer on Thursday.” When the form asked how the assault took place, § 87(2)(b) circled the choice “hit with objects” and wrote in the blank: “handcuff.”

### **Results of Investigation**

#### **Witness Statement: § 87(2)(b) (Encl. 9A-D)**

§ 87(2)(b) was interviewed at the CCRB on June 19, 2008 at 3:57 PM. § 87(2)(b) was present when the police officers arrived on the § 87(2)(b) floor of § 87(2)(b) on May 15, 2008. He is § 87(2)(b) and § 87(2)(b)’s nephew and he lives in the apartment adjacent to the hallway in which the allegations occurred. § 87(2)(b) is a § 87(2)(b)-old Hispanic male. He has brown hair and brown eyes.

On May 15, 2008, at approximately 10:30 PM, § 87(2)(b) was in the hallway outside of his apartment with a group of friends. § 87(2)(b) saw three police officers come up the stairs. An officer, identified through investigation as PO Rafael Perdomo, grabbed § 87(2)(b) by his clothes and pushed him face first into a wall. A second officer, identified through investigation as PO Gypsy Pichardo, grabbed § 87(2)(b) and put him up against the wall and handcuffed him. A third officer, identified through investigation as PO Yrcania Rodriguez, was also present.

§ 87(2)(b) asked PO Perdomo, “Why are you arresting me?” PO Perdomo didn’t answer. PO Perdomo pushed § 87(2)(b) into the wall, face first. § 87(2)(b) resisted being handcuffed by moving his arms. PO Perdomo told § 87(2)(b) to shut up and punched him in the back of the head. § 87(2)(b) continued to resist. PO Perdomo hit § 87(2)(b) once with the handcuffs towards the front of his head, on the side. After PO Perdomo hit § 87(2)(b) with the handcuffs, the handcuffs fell on the floor. PO Perdomo said, “Stop moving or I will mace you,” and took out his pepper spray. PO Pichardo handcuffed § 87(2)(b).

§ 87(2)(b) was in the opposite corner of the hallway. He said, “Why are you doing this? There is no reason to lock anyone up.” § 87(2)(b) told § 87(2)(b) to take down PO Perdomo’s badge number. PO Perdomo then rushed over to § 87(2)(b) pushed him against the wall and handcuffed him.

All three officers took § 87(2)(b) and § 87(2)(b) downstairs and left the scene.

**Witness Statement: § 87(2)(b) (Encl. 10A-E)**

§ 87(2)(b) was interviewed at the CCRB on June 27, 2008. § 87(2)(b) was present when the police officers arrived on the § 87(2)(b) floor of § 87(2)(b) on May 15, 2008. She is § 87(2)(b)s girlfriend. § 87(2)(b) is a § 87(2)(b)-old black female with brown hair and brown eyes. She is 5’2” tall and weighs 145 pounds.

On May 15, 2008, at approximately 10:25 PM, § 87(2)(b) was with her boyfriend, § 87(2)(b) and several other people in a hallway outside an apartment on the § 87(2)(b) floor of § 87(2)(b). Three police officers arrived on the scene. One officer, identified through investigation as PO Rafael Perdomo, grabbed § 87(2)(b) who was near the stairs, and put him face-first against the wall. PO Perdomo did not say anything to § 87(2)(b). PO Perdomo kicked § 87(2)(b)s feet apart. § 87(2)(b) asked, “What did I do?” PO Perdomo took out his handcuffs and hit § 87(2)(b) in the right side of his head with the lose end of the cuff. PO Perdomo hit § 87(2)(b) more than three times. § 87(2)(b) ran to § 87(2)(b) and put her arms around him. The officers told her to let go. § 87(2)(b) was bleeding from the right side of his head. Another officer, identified through investigation as PO Gypsy Pichardo, grabbed § 87(2)(b) by her waist and pulled her away. PO Perdomo dared § 87(2)(b) to hit him, but § 87(2)(b) did not do so. § 87(2)(b) was then handcuffed and did not resist being handcuffed. PO Perdomo hit § 87(2)(b) with a second set of handcuffs in the right side of his head, holding them as brass knuckles. PO Perdomo hit § 87(2)(b) even after he was in handcuffs. While this was taking place, PO Pichardo grabbed § 87(2)(b) and handcuffed him.

§ 87(2)(b) screamed, “Why are you hitting my bother § 87(2)(b). Get his badge number,” referring to PO Perdomo. PO Perdomo took off his badge and put it in his pocket. The third officer on the scene, identified through investigation as PO Yrcania Rodriguez, grabbed § 87(2)(b). PO Pichardo went over to § 87(2)(b) and handcuffed him. § 87(2)(b) and § 87(2)(b) were then taken downstairs.

When § 87(2)(b) was released from jail, § 87(2)(b) observed that he had swelling on his head, swollen and bleeding wrists, and swollen feet. The swelling of the feet was a complication to a previous injury. § 87(2)(b) went to the emergency room.

**Victims Not Interviewed:**

On July 21, 2008, § 87(2)(b) missed his scheduled appearance at the CCRB and gave no reason for his absence. He was sent a missed appointment letter on July 23, 2008, and was called two times subsequently in an attempt to reschedule his appointment. He did not respond to these requests. He was therefore considered uncooperative.

§ 87(2)(b) was called four times between June 24, 2008, and July 18, 2008. After this point his phone was disconnected. § 87(2)(b) was sent a Final Please Call letter on July 7, 2008.

**Witnesses Not Interviewed:**

§ 87(2)(b) and § 87(2)(b) lived in the apartment adjacent to the hallway in which the allegations occurred. Both of them are acquainted with the victims and were present and had their apartment door open at the time of the incident. Both were sent letters on June 20, 2008, and then were contacted via telephone on June 24, 2008, at which point both agreed to appear at the CCRB on June 28, 2008. On June 28, 2008, both of them missed their scheduled appearance at the CCRB and gave no reason for their absence. They were each sent a letter. During a phone call made by Investigator Watson after the missed appointment, § 87(2)(b) told Investigator Watson that he would call her back to reschedule their appointment. He did not do so. Investigator Watson called § 87(2)(b) and § 87(2)(b) home two subsequent times and received no response.

**Witnesses Not Contacted:**

Four additional individuals are listed as witnesses. Their names are § 87(2)(b) and “§ 87(2)(b).” Because § 87(2)(b) and the witnesses who did appear at the CCRB were unable to give full contact information for these individuals, the investigation could not contact them.

**Officer Statements:**

**PO Gypsy Pichardo Memo Book (Encl. 11D-F)**

2209 (10-10) narco @ § 87(2)(b)  
2219 (10-84)  
2225 (10-92C)3X by PO Perdomo

**PO Gypsy Pichardo Interview Statement (Encl. 11A-C)**

On August 26, 2008, at 10:11 AM, PO Gypsy Pichardo was interviewed at the CCRB. He is a 39-year-old Hispanic male. He is 6’4” tall and weighs 240 pounds. On May 15, 2008 PO Pichardo worked from 5:30 PM until 2:05 AM and was assigned to Impact Patrol in a marked van. He was working with PO Perdomo and PO Yrcania Rodriguez. He was in uniform.

On May 15, 2008, at 10:00 PM PO Pichardo, PO Rodriguez and PO Perdomo responded to a radio run of narcotics use on the § 87(2)(b) floor hallway of § 87(2)(b). When PO Pichardo arrived, he observed § 87(2)(b) rolling a marijuana cigarette in the hallway. PO Pichardo estimated that there were seven to ten people in the hallway. PO Pichardo began handcuffing § 87(2)(b). While PO Pichardo was doing this, the people in the hallway crowded the three officers. One of these people, § 87(2)(b) was immediately behind PO Pichardo, stating that § 87(2)(b) couldn’t be arrested.

PO Perdomo told § 87(2)(b) to step back. PO Perdomo grabbed § 87(2)(b) and pulled him away. While this happened, PO Pichardo was still putting § 87(2)(b) in handcuffs. Once § 87(2)(b) was in handcuffs, PO Pichardo turned and saw PO Perdomo’s shield on the floor. PO Pichardo did not know how the shield got there. PO Perdomo was trying to pull § 87(2)(b)’s hand behind his back and handcuff him, but § 87(2)(b) was resisting by flailing his hands. The other people in the hallway were complaining and crowding his partner, PO Perdomo. These people were not actually touching PO Perdomo. PO Pichardo started pulling people away from PO Perdomo and helped PO Perdomo complete the arrest of § 87(2)(b). PO Pichardo did not see PO Perdomo hit § 87(2)(b) with handcuffs, nor did he see him threaten § 87(2)(b) with the use of pepper spray, however, PO Perdomo did push § 87(2)(b) while trying to subdue him. PO Perdomo did not say “Shut the fuck up” to anyone, or use any profanity.

While this was happening, § 87(2)(b) approached the situation with a baseball bat in his right hand, saying, “You can’t do that, you can’t do that.” PO Pichardo called for additional units. § 87(2)(b) approached PO § 87(2)(b) [sic]. After § 87(2)(b) was put under arrest, PO Pichardo and PO Perdomo put § 87(2)(b) under arrest. § 87(2)(b) was also resisting arrest.

§ 87(2)(b) and § 87(2)(b) were handcuffed and taken downstairs by PO Perdomo and PO Pichardo. PO Pichardo never hit § 87(2)(b) with an asp. No one used force against § 87(2)(b). PO Pichardo did not know what PO Rodriguez was doing during the incident.

§ 87(2)(b) had a laceration on his head. PO Pichardo did not know how he sustained that injury. An ambulance was called for § 87(2)(b) but he refused medical attention. PO Pichardo went to the hospital with § 87(2)(b) who complained of an injury to his wrist. PO Pichardo did not know how § 87(2)(b) would have sustained an injury to his wrist.

**PO Rafael Perdomo Memo Book (Encl. 12(1)C-D)**

2209: 10-10 narco sale § 87(2)(b)

2215: (84)

2225: 3 under at § 87(2)(b) A/O Perdomo

**PO Rafael Perdomo Interview Statement (Encl. 12(1)A-B)**

On November 12, 2008, PO Rafael Perdomo was interviewed at the CCRB. PO Perdomo is a § 87(2)(b)-old Hispanic male with black hair and brown eyes. He is 5'9" tall and weighs 210 pounds. On May 15, 2008, PO Perdomo was assigned to Impact Patrol with PO Pichardo and PO Rodriguez. His tour was from 6:00 PM until 2:00 AM. He was dressed in uniform and assigned to a marked van.

At approximately 10:25 PM on May 15, 2008, PO Perdomo and his partners responded to a narcotics sale on the § 87(2) floor of § 87(2)(b). PO Perdomo observed a group of about ten people in the 4<sup>th</sup> floor hallway. § 87(2)(b) was rolling a marijuana cigarette. § 87(2)(b) tried to turn around and walk away. PO Pichardo grabbed him and handcuffed him. § 87(2)(b) did not resist. Other people were smoking marijuana. § 87(2)(b) began to walk away toward the stairs.

PO Perdomo approached § 87(2)(b). PO Perdomo grabbed one of § 87(2)(b)'s wrists and tried to turn him around and put him up against the wall. § 87(2)(b) turned around and swung at PO Perdomo, knocking his badge off of his uniform and onto the floor. PO Perdomo told § 87(2)(b) to "stop resisting and to get against the wall." PO Perdomo turned § 87(2)(b) around and pushed him against the wall. A female got into between PO Perdomo and § 87(2)(b). She was screaming, "Let him go! Why are you doing this?" PO Rodriguez stopped her from interfering by blocking her. PO Perdomo subsequently pushed § 87(2)(b) against the wall a few times, face first, before was able to handcuff him successfully. PO Pichardo remained with § 87(2)(b) and PO Rodriguez was trying to calm down the crowd. § 87(2)(b) injured his head at the scene from hitting the wall. PO Perdomo never hit him in the head with handcuffs or any object. No civilians at the scene ever asked for his name or shield number. PO Perdomo never took out his pepper spray or threatened anyone with pepper spray. He never used profanity or said, "Shut the fuck up."

§ 87(2)(b) approached PO Perdomo with a gray aluminum mini-bat in his hands. § 87(2)(b) was holding the bat as if he would swing it. PO Perdomo told him to put it down and he complied. PO Perdomo put § 87(2)(b) on the floor and handcuffed him. § 87(2)(b) was physically compliant. PO Rodriguez radioed for additional officers to respond to the scene. Backup arrived when the three officers already present were taking the arrested men down the stairs. PO Perdomo took § 87(2)(b) down the stairs. § 87(2)(b) was pulling away from him, but PO Perdomo did not have to use any force against him. § 87(2)(b) complained that his handcuffs were too tight, but did not complain of any other injury.

**PO Perdomo Statement on Complaint Report (Encl. 20A-B)**

On May 15, 2008, PO Perdomo filled out a complaint report numbered § 87(2)(b) against § 87(2)(b) and § 87(2)(b) for § 87(2)(a) 160.50. PO Perdomo provided the following narrative: "§ 87(2)(a) 160.50

§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

#### **PO Yrcania Rodriguez Interview Statement (Encl. 12A-B)**

On November 5, 2008, PO Yrcania Rodriguez was interviewed at the CCRB. PO Rodriguez is a § 87(2)(b) - old Hispanic female with black hair and brown eyes. She is 5'4" and weighs 155 pounds. On May 15, 2008, PO Rodriguez worked from 5:30 PM until 2:05 AM with PO Pichardo and PO Perdomo. She was assigned to Impact Patrol. She was dressed in uniform and assigned to an unmarked van. PO Rodriguez did not have any memobook entries regarding this incident.

Around 10:25 PM on May 15, 2008, PO Rodriguez received a radio run for a narcotics sale on the § 87(2)(b) floor of § 87(2)(b). She and her two partners responded. At the scene, PO Rodriguez observed about 15 individuals in the hallway. § 87(2)(b) was standing about five steps away from the staircase with a white business-sized envelope. He pulled some marijuana out and, seeing the officers, threw the envelope on the floor. PO Pichardo retrieved the envelope and arrested § 87(2)(b). PO Rodriguez did not recall if he was compliant. PO Rodriguez called for assistance over the radio.

§ 87(2)(b) came out of an unknown apartment about eight feet away with a standard sized, metal bat in his hands. He was holding it as if he would strike the officers. PO Perdomo approached him, retrieved the bat and arrested § 87(2)(b) for § 87(2)(a) 160.50. PO Rodriguez did not see § 87(2)(b) assault anyone or attempt to assault anyone with the bat. He was cooperative when PO Perdomo handcuffed him. No officers used force against § 87(2)(b).

§ 87(2)(b) was in the crowd. He tried to intervene in § 87(2)(b)'s arrest. § 87(2)(b) pushed PO Perdomo and knocked his shield off of his uniform. PO Perdomo got one handcuff on one of § 87(2)(b)'s wrists. § 87(2)(b) moved his cuffed arm around to keep PO Perdomo from cuffing the other arm. PO Perdomo got out a second pair of handcuffs and struck § 87(2)(b) in the head with his second pair of handcuffs. PO Rodriguez was not sure how many times PO Perdomo struck § 87(2)(b). He was hit on the right side of his head. Aside from initially pushing PO Perdomo, § 87(2)(b) did not assault PO Perdomo in any other way. PO Perdomo was then able to handcuff § 87(2)(b) and PO Rodriguez left the scene.

§ 87(2)(b) saw EMS at the precinct. § 87(2)(b) said that an officer had struck him with handcuffs. PO Rodriguez did not recall if PO Perdomo told anyone to "shut the fuck up." PO Perdomo did not threaten to use his pepper spray on anyone. At the scene no one asked for names or shield numbers, but two females came to the precinct later and asked. They did not ask PO Rodriguez directly.

#### **NYPD Documents**

##### **SPRINTs (Encl. 19A-C)**

SPRINT number § 87(2)(b) indicated that at 10:08 PM an uncooperative male caller reported that an individual was smoking marijuana at § 87(2)(b). At 10:16 PM, an officer from the 46<sup>th</sup> Precinct, labeled "S5849" reported arriving at the scene. At 10:21 PM, the same officer from the 46<sup>th</sup> Precinct radioed for back-up. At 10:21 PM, a lieutenant responded to the scene. At 10:25 PM, three individuals were placed under arrest. At 10:27 PM, all officers were accounted for and no officers were found to be injured. At 10:34 PM, a robbery patrol car arrived at the scene. At 11:37 PM, an arrest was reported.

SPRINT number § 87(2)(b) indicated that a male caller named Rosario on the fifth floor of § 87(2)(b) stated that there was "poss blood all over the plc." At 10:38, the EMS was on the scene. This is listed as a duplicate complaint for job number § 87(2)(b) on which the final disposition is listed. [Job § 87(2)(b) is listed immediately above]

##### **IAB Command Center Recording (Encl. 7(1)A)**

On the night of May 15-16, 2008, Sgt. Jose Camacho called the Internal Affairs Bureau to make a notification that two civilians had been injured during an arrest at § 87(2)(b) in the Bronx. Sgt. Camacho did not witness the incident himself, but he was the supervising sergeant of the arresting officer,

PO Perdomo. Sgt. Camacho stated the following with relation to the injuries sustained by § 87(2)(b) and § 87(2)(b)

PO Perdomo attempted to apprehend § 87(2)(b) § 87(2)(b) was giving PO Perdomo a “hard time” and yelling and being uncompliant. While this was happening, § 87(2)(b) approached the situation holding a baseball bat. PO Perdomo stepped back and took out his mace. PO Perdomo then attempted to place handcuffs on § 87(2)(b) by pushing § 87(2)(b) against the wall and pulling his hands behind his back. § 87(2)(b) sustained his injury at this point, but PO Perdomo was not sure if the injury was from being pushed against the wall or because “the handcuffs were held high.” Either the handcuffs or the wall hit § 87(2)(b) s head. Sgt. Camacho was vague regarding the details of how the injury could have been incurred. The officers called a 10-85. By the time Sgt. Camacho arrived, there were at least 30 officers on the scene and PO Perdomo and the perpetrators were already at the precinct.

Two perpetrators were injured. The first was § 87(2)(b) who sustained a cut to his head. He was treated by EMS and RMA-ed. The second injured perpetrator was § 87(2)(b) who claimed an injury to his right wrist. He was being treated by EMS while Sergeant Camacho was on the phone. Sergeant Camacho did not know if § 87(2)(b) would be RMA-ed or would be taken to the hospital. The third perpetrator, § 87(2)(b) did not claim any injuries.

#### **Roll Call (Encl. 15A-M)**

The roll call for May 15, 2008, for the 46th Precinct, listed the following assignments: Sergeant Jose Camacho was the supervisor for the third tour. He was assigned to RMP 5476. PO Yrcania Rodriguez was assigned to Mobile/Impact Unit for the third tour. She is not listed as being assigned to a motor vehicle. PO Rafael Perdomo and PO Gypsy Pichardo are also assigned to the Mobile/Impact Unit and are assigned to RMP number 5476.

#### **Command Log (Encl. 18A)**

The command log for May 15, 2008, for the 46<sup>th</sup> Precinct, indicated that at 10:30 PM, § 87(2)(b) was arrested for § 87(2)(a) 160.50. The arresting officer was PO Perdomo. § 87(2)(b) had an injury to his head and requested medical attention.

The command log indicated that § 87(2)(b) was arrested for § 87(2)(a) 160.50. The arresting officer was PO Perdomo. § 87(2)(b) did not request medical attention.

The command log indicated that § 87(2)(b) was arrested for § 87(2)(a) 160.50. The arresting officer was PO Perdomo. § 87(2)(b) did not request medical attention. At 12:35 AM on May 16, 2008, § 87(2)(b) was taken to § 87(2)(b). He returned to the Station House at 3:40 AM on May 16, 2008.

#### **Prisoner Holding Pen Roster (Encl. 16A)**

The Prisoner Holding Pen Roster for May 15-16, 2008, for the 46<sup>th</sup> Precinct, indicated that § 87(2)(b) and § 87(2)(b) were held from 11:00 PM on May 15, 2008 until 6:00 AM on May 16, 2008. § 87(2)(b) held from 11:00 PM on May 15, 2008, until 12:30 AM on May 16, 2008. At 12:30 AM, § 87(2)(b) was taken to the § 87(2)(b). He returned to the holding pen at 3:40 AM and was checked out of the holding pen at 6:00 AM on May 16, 2008.

#### **Property Vouchers (Encl. 17A-B)**

On May 15, 2008, at the 46<sup>th</sup> Precinct Station House, § 87(2)(b) had a metal baseball bat vouchered as arrest evidence on voucher number § 87(2)(b). On May 15, 2008, at the 46<sup>th</sup> Precinct Station House, § 87(2)(b) had an envelope containing marijuana vouchered as arrest evidence on voucher number § 87(2)(b).

#### **Arrest Reports (Encl. 21A-F)**

Arrest number § 87(2)(b) indicated that on May 15, 2008, at 10:25 PM at § 87(2)(b) in the Bronx, § 87(2)(b) was arrested for § 87(2)(a) 160.50.



§ 87(2)(a) 160.50

§ 87(2)(b) received medical assistance for an injury. However, the arresting officer, PO Perdomo, did not use force against him.

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Arrest number § 87(2)(b) indicated that on May 15, 2008, at 10:25 PM at § 87(2)(b) in the Bronx, § 87(2)(b) was arrested for § 87(2)(a) 160.50. The arresting officer was PO Perdomo.

#### Arrest Photographs (Encl. 21A-F)

In § 87(2)(b)'s arrest photograph, a red substance, likely blood, is visible above his right ear and on the right side of his shirt. § 87(2)(b)'s and § 87(2)(b)'s arrest photographs are unremarkable.

#### Medical Records

#### Pre-Arrest Screenings (Encl. 13A-F)

On § 87(2)(b), § 87(2)(b) is listed as having a minor injury to his right hand. On § 87(2)(b), § 87(2)(b) is listed as having a head injury to the right side of his head. On § 87(2)(b), § 87(2)(b) is listed as having no injuries.

#### Records from § 87(2)(b) Center (Encl. 14A-O)

On § 87(2)(b), § 87(2)(b) entered the Emergency Room of § 87(2)(b) and stated that he was hit in the right side of the head by a police officer. He also stated that he was hit in the chest and forearm and that he had chest-wall tenderness. Lastly, he stated that he had hand and wrist pain where handcuffs were placed on him.

On § 87(2)(b), § 87(2)(b) filled out an Alleged Assault Form at the § 87(2)(b). He stated that "I was hit in the head, neck, and chest by police officer on Thursday." When the form asked how the assault took place, § 87(2)(b) circled the choice "hit with objects" and wrote in the blank: "handcuff."

A physical examination done by § 87(2)(b) confirmed that § 87(2)(b) had a healed laceration on the right side of his scalp. The laceration was one centimeter in length. The examination also confirmed that § 87(2)(b) suffered from tenderness in the back of his chest and pain in his sternal area. § 87(2)(b) was given an x-ray of his chest at § 87(2)(b). The results were negative and he was released on § 87(2)(b).

#### Criminal Conviction History of Complainants/Victims (Encl. 23A-25D):

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

**Civilian Complaint Review Board History of Subject Officers (Encl. 2A-3A):**

In two years of service, PO Gypsy Pichardo has had no allegations substantiated against him. § 87(2)(g)

In two years of service, PO Rafael Perdomo has had no allegations substantiated against him. § 87(4-b) § 87(2)(g)

Furthermore, PO Perdomo is listed as the subject officer in § 87(2)(b) other cases that are currently under investigation at the CCRB. They are case numbers § 87(2)(g) 200809529, 200800800 and 200903235.

**Potential Lawsuits Filed (Encl. 22A):**

§ 87(2)(b) and § 87(2)(b) have no relevant lawsuits filed at this time.

**Conclusions and Recommendations**

**Officer Identification**

Based on the Arrest Reports and the Complaint Report, PO Perdomo was the arresting officer during the incident. According to the 46<sup>th</sup> Precinct Roll Call for May 15, 2009, Tour 3, PO Yrcania Rodriguez and PO Gypsy Pichardo were assigned to a Mobile Impact Unit with PO Perdomo. Furthermore, all three officers acknowledged in their statements to the CCRB that they were working together and were the first unit to arrive at the scene and the only unit present during the arrests. According to § 87(2)(b) and § 87(2)(b) a short, stocky, bald male officer in uniform pushed § 87(2)(b) against a wall, hit § 87(2)(b) in the head with handcuffs while arresting him and threatened to pepper spray § 87(2)(b). The description of the officer matches the pedigree of PO Perdomo (who is bald in his officer photograph, though he is listed as having black hair). Furthermore, PO Perdomo acknowledged in his interview that he used force to arrest § 87(2)(b) and that he was the only officer to interact with § 87(2)(b) during the arrest. Therefore, Allegations A, C and D are pleaded against PO Perdomo. More over, § 87(2)(b) stated that the same officer who arrested him used discourteous language, had his badge come off his shirt, used force to arrest § 87(2)(b) and yanked § 87(2)(b)'s handcuffs with the intent to cause injury. § 87(2)(g)

§ 87(2)(b) stated that the second male officer at the scene hit § 87(2)(b) with an asp while § 87(2)(b) was handcuffed. § 87(2)(b) described this officer as a white male officer in uniform with short black hair, approximately 6'2" tall and weighing 200 pounds. This description matches the pedigree of PO Gypsy Pichardo, who was the only other male officer on the scene at the time, and who, though being listed as Hispanic, has green eyes, making it reasonable for § 87(2)(b) to believe he was white. § 87(2)(g)

**Undisputed Facts**

It is undisputed that PO Perdomo pushed § 87(2)(b) against a wall. It is undisputed that PO Perdomo's badge was in some manner removed from his shirt.

**Disputed Facts**

§ 87(2)(g)

### Assessment of Evidence:

§ 87(2)(g) § 87(2)(b) stated that when PO Perdomo told him to stand against a wall, he verbally refused to do so and he asked PO Perdomo to justify his presence in the hallway. In contrast, § 87(2)(b) stated that PO Perdomo immediately grabbed § 87(2)(b) by the clothes and pushed him face-first against a wall. According to § 87(2)(b) PO Perdomo immediately grabbed § 87(2)(b) and placed him face-first against a wall and kicked his feet apart. According to PO Pichardo, § 87(2)(b) was crowding him as he was trying to arrest § 87(2)(b) so PO Perdomo asked § 87(2)(b) to step back. When § 87(2)(b) would not comply, PO Perdomo forcibly pulled § 87(2)(b) away from him. In contrast, PO Rodriguez stated that § 87(2)(b) attempted to intervene in § 87(2)(b)'s arrest by pushing PO Perdomo. According to PO Perdomo, § 87(2)(b) attempted to flee the scene as soon as the officers arrived. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) alleged that PO Perdomo told him to “shut the fuck up.” Both § 87(2)(b) and § 87(2)(b) made no mention of discourteous language in their statements. PO Pichardo and PO Perdomo stated that PO Perdomo did not use any profanity during the incident. PO Rodriguez could not recall if PO Perdomo said “Shut the fuck up.” § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g) § 87(2)(b) claimed that § 87(2)(b) never resisted arrest. However, § 87(2)(b) PO Rodriguez and PO Pichardo stated that § 87(2)(b) moved or flailed his arms to avoid being handcuffed. In his statement to the CCRB, PO Perdomo claimed that § 87(2)(b) hit him when he grabbed § 87(2)(b)'s wrists. However, in the complaint report PO Perdomo filled out soon after the incident, PO Perdomo wrote: “§ 87(2)(a) 160.50

§ 87(2)(b)

§ 87(2)(b) alleged that PO Perdomo did not attempt to arrest him before using his handcuffs as a weapon. All the statements, aside from § 87(2)(b)'s and § 87(2)(b)'s, agree that § 87(2)(b) resisted PO Perdomo's attempt to handcuff him. Three of the statements (one from a civilian and two from officers) state that § 87(2)(b) was flailing his arms so they could not be handcuffed, but that § 87(2)(b) was not physically attacking PO Perdomo when PO Perdomo was attempting to handcuff him. The Complaint Report PO Perdomo filled out soon after the incident confirmed this latter interpretation. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g) § 87(2)(b) stated that PO Perdomo wrapped one part of his handcuffs around his fist and used the dangling part of the handcuffs to swing at § 87(2)(b) and hit him in the head, four times in total. One of the blows landed on the left part of § 87(2)(b)'s head and another above his left ear. § 87(2)(b) stated that PO Perdomo punched § 87(2)(b) in the back of the head and then used his handcuffs to strike § 87(2)(b) on the front/side of the head. § 87(2)(b) stated that once PO Perdomo had placed § 87(2)(b) against the wall, PO Perdomo took out his handcuffs and hit § 87(2)(b) on the right side of the head more than three times with the loose end of the handcuffs. PO Pichardo acknowledged that § 87(2)(b) sustained a laceration to his head during the incident, but did not know how that injury could have taken place. PO Rodriguez stated that after PO Perdomo had placed one half a pair of handcuffs on one of § 87(2)(b)'s wrists, PO Perdomo got out a second pair of handcuffs and hit § 87(2)(b) on the right side of the head with the handcuffs. PO Rodriguez was uncertain how many times § 87(2)(b) was struck. During his statement to the CCRB, PO Perdomo denied hitting § 87(2)(b) in the head with handcuffs or any other object, but

acknowledged pushing § 87(2)(b)'s head against the wall and claimed that § 87(2)(b) sustained his injury when his head hit the wall. However, on a Complaint Report he filled out directly after the incident, PO Perdomo is less specific as to how § 87(2)(b) sustained his injury, stating that "§ 87(2)(a) 160.50 [redacted]." [sic] When Sergeant Camacho called the IAB Command Center to file an injury report, he reported that either handcuffs or the wall hit § 87(2)(b)'s head. The Pre-Arrest Screening listed § 87(2)(b) as having a head injury to the right side of his head. In § 87(2)(b)'s arrest photograph, the right side of his shirt is stained with a red substance, likely blood. Furthermore, there is a small red mark on the right side of § 87(2)(b)'s head, above his ear. When § 87(2)(b) went to the § 87(2)(b) [redacted] after being released from jail, he filled out an Alleged Assault Form, on which he stated that "I was hit in the head, neck, and chest by police officer on Thursday." When the form asked how the assault took place, § 87(2)(b) circled the choice "hit with objects" and wrote in the blank: "handcuff." A physical examination done by § 87(2)(b) confirmed that § 87(2)(b) had a healed laceration on the right side of his scalp. The laceration was one centimeter in length. The investigation concluded that it is unlikely that a cut resembling that sustained by § 87(2)(b) could have been caused on a flat surface like a wall. Moreover, the medical evidence, the arrest photograph, PO Rodriguez's testimony, and the corroborating testimony of all three civilians were collectively conclusive. § 87(2)(g)

§ 87(2)(g) § 87(2)(b) alleged that PO Perdomo told him "If you don't shut up, I'll mace you," after he had been placed against the wall. § 87(2)(b) alleged that PO Perdomo told § 87(2)(b) to "Stop moving or I will mace you," after PO Perdomo hit § 87(2)(b) in the head with handcuffs. § 87(2)(b) made no mention of a threat of pepper spray. PO Rodriguez and PO Perdomo stated that PO Perdomo did not threaten § 87(2)(b) with pepper spray. PO Pichardo did not see PO Perdomo threaten § 87(2)(b) with pepper spray. § 87(2)(g)

§ 87(2)(g) § 87(2)(b) stated that he heard § 87(2)(b) request PO Perdomo's badge number and that the next time he looked at PO Perdomo's chest, his badge had disappeared. § 87(2)(b) claimed that when § 87(2)(b) requested someone write down PO Perdomo's badge number, PO Perdomo walked quickly towards § 87(2)(b) and arrested him. § 87(2)(b) stated that after § 87(2)(b) requested PO Perdomo's badge number, PO Perdomo took his badge off his shirt and placed it in his pocket. PO Pichardo saw PO Perdomo's shield on the floor, but did not know how it got there. PO Rodriguez and PO Perdomo stated that § 87(2)(b) pushed PO Perdomo and knocked his shield off his shirt. § 87(2)(g)

§ 87(2)(g) § 87(2)(b) and § 87(2)(b) stated that PO Perdomo used physical force in arresting § 87(2)(b) § 87(2)(b) stated that no one used force in arresting § 87(2)(b) and that PO Rodriguez and PO Pichardo made the arrest. PO Pichardo stated that § 87(2)(b) was resisting arrest, but did not articulate if any officers used force to arrest him. PO Rodriguez claimed that § 87(2)(b) was cooperative and no force was used against him. PO Perdomo stated that § 87(2)(b) was physically compliant to being arrested, though he was placed on the floor when he was arrested. § 87(2)(g)

§ 87(2)(g) § 87(2)(b) stated that after § 87(2)(b) had been arrested and when he was being led down a stairway in handcuffs, PO

Pichardo hit § 87(2)(b) three or four times with an asp. The other two civilians interviewed were not in the stairway to witness the incident. PO Perdomo, PO Rodriguez and PO Pichardo all stated that PO Pichardo did not hit § 87(2)(b) with an asp. § 87(2)(g)

§ 87(2)(g) § 87(2)(b) stated that after § 87(2)(b) had been arrested and when he was being led down a stairway in handcuffs, PO Perdomo yanked § 87(2)(b)'s handcuffs, causing § 87(2)(b) to be pulled backwards up two or three steps and injuring § 87(2)(b)'s wrists. The other two civilians interviewed were not in the stairway to witness the incident. In the Pre-Arrest Screening, § 87(2)(b) is listed as having a minor injury to his right hand. The 46<sup>th</sup> Precinct Command Log stated that § 87(2)(b) was taken to § 87(2)(b) at § 87(2)(b). In his calls to the IAB Command Center, Sgt. Camacho stated that § 87(2)(b) was being taken to the hospital to make sure he did not have a fractured wrist. PO Perdomo claimed that § 87(2)(b) was pulling away from him in the stairway, but that he did not use any force against § 87(2)(b). PO Rodriguez claimed she escorted § 87(2)(b) from the scene. PO Pichardo accompanied § 87(2)(b) to the hospital for treatment for his injured wrist. However, PO Pichardo did not know how § 87(2)(b) could have sustained such an injury. § 87(2)(g)

#### **Allegation A: PO Perdomo used physical force against § 87(2)(b)**

§ 87(2)(g) According to the NYPD's *Scale of Escalating Force (encl. 1A)*, an officer may use physical force when a civilian is provoking or creating a dangerous situation for either himself or the officers present. § 87(2)(g)

#### **Allegation B: PO Perdomo spoke obscenely to § 87(2)(b)**

§ 87(2)(g)

#### **Allegation C: PO Perdomo struck § 87(2)(b) with handcuffs**

§ 87(2)(g) *Patrol Guide 203.11 (encl. 1(1)A-B)*, which states that an officer must use the minimum necessary force.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation D: PO Perdomo threatened § 87(2)(b) with the use of force**

§ 87(2)(g)

**Allegation E: PO Perdomo refused to provide his shield number to § 87(2)(b)**

§ 87(2)(g)

**Allegation F: PO Perdomo used physical force against § 87(2)(b)**

§ 87(2)(g)

**Allegation G: PO Pichardo struck § 87(2)(b) with an asp**

§ 87(2)(g)

**Allegation H: PO Rafael Perdomo tightened § 87(2)(b)'s handcuffs**

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: